

Brett Foster (#6089)
Grant Foster (#7202)
Tamara Kapaloski (#13471)
DORSEY & WHITNEY LLP
111 S. Main Street, Suite 2100
Salt Lake City, UT 84111
Telephone: (801) 933-7360
Facsimile: (801) 933-7373
foster.brett@dorsey.com
foster.grant@dorsey.com
kapaloski.tammy@dorsey.com

Attorneys for Plaintiff Blendtec Inc.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

BLENDTEC INC., a Utah corporation,

Plaintiff,

vs.

BLENDJET INC., a Delaware corporation,

Defendant.

**BLENDTEC’S MOTION FOR LEAVE
TO FILE REPLY TO BLENDJET’S
RESPONSE TO MOTION TO
COMPEL COMPLIANCE WITH
SUBPOENAS TO PATRICK MCGILL
AND SHEPPARD MULLIN**

Civil No. 2:21-cv-00668-TC-DBP

Judge Tena Campbell
Magistrate Judge Dustin B. Pead

Blendtec hereby requests leave to file a reply to Blendjet’s Response to Blendtec’s Motion to Compel Patrick McGill and Sheppard Mullin to Produce Documents Responsive to Blendtec’s Subpoenas, which Blendjet filed as ECF 121 (the “Response”). For the following reasons, Blendtec respectfully requests leave of the Court to file the Reply attached as Exhibit 1 hereto:

First, in its Response, Blendjet objects to Blendtec’s motion to compel on the ground that

it is not properly brought in this District. Blendtec's proposed Reply responds to this argument by explaining why the motion is properly brought in this district.

Second, Blendjet's Response misconstrues the record by stating that the meet and confer process was not completed. As shown in Blendtec's proposed Reply, Blendtec first issued the subpoenas at issue on March 1, and consistently attempted to meet and confer on the issue since that time. Blendtec filed the motion to compel only after Blendjet served its written objections and refused to produce even one responsive document and only after Blendjet stated during telephonic conferral that McGill and Sheppard Mullin stood by its objections and would not produce documents. Blendjet's offer to cherry pick select documents it would be willing to produce to support its position on a limited topic does not change the fact that Blendtec met its meet and confer obligations.

Third, Blendjet argues that the motion seeks to compel compliance with untimely written discovery requests that were served on April 21. Response at 3. But, Blendjet did not disclose McGill's role at Blendjet nor did it produce any documents related to McGill's role at Blendjet until well after the deadline to serve written discovery passed.

Thus, Blendtec requests leave to file the Reply attached hereto as Exhibit 1 to explain this Court's basis for jurisdiction over the motion to compel and to correct Blendjet's mischaracterizations of the record.

DATED this 18th day of May, 2023.

DORSEY & WHITNEY LLP

/s/ Tamara L. Kapaloski

Brett Foster (#6089)

Grant Foster (#7202)

Tamara L. Kapaloski (#13471)

Attorneys for Plaintiff Blendtec Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of May, 2023, a true and correct copy of the foregoing document was served on counsel of record via the Courts CM/ECF System which sent notice to counsel of record:

Martin R. Bader: mbader@sheppardmullin.com

Jesse A. Salen: jsalen@sheppardmullin.com

Patrick M. McGill: patrick@mcgillco.com

Nathan D. Thomas: nthomas@parsonsbehle.com

Elizabeth M. Butler: lbutler@parsonsbehle.com

/s/ Tamara L. Kapaloski